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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-730

13 **MAUREEN PATRICIA ROONEY AKA**
14 **MAUREEN ROONEY**

A C C U S A T I O N

5340 Toscana Way, Apt. 307
San Diego, CA 92122

15 Registered Nurse License No. 549333

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about November 2, 1998, the Board of Registered Nursing issued Registered
24 Nurse License Number 549333 to Maureen Patricia Rooney aka Maureen Rooney
25 ("Respondent"). The Registered Nurse License expired on March 31, 2002, and has not been
26 renewed.

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4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

“In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure.”

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

1 following: (a) Unprofessional conduct, which includes, but is not limited to, the

2 ...

3 (4) Denial of licensure, revocation, suspension, restriction, or any other
4 disciplinary action against a health care professional license or certificate by another
5 state or territory of the United States, by any other government agency, or by another
6 California health care professional licensing board. A certified copy of the decision
7 or judgment shall be conclusive evidence of that action.

8 ...

9 (d) Violating or attempting to violate, directly or indirectly, or assisting
10 in or abetting the violating of, or conspiring to violate any provision or term of this
11 chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

12 ...

13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the record of
15 the conviction shall be conclusive evidence thereof."

16 9. Section 490 of the Code states in pertinent part:

17 "(a) In addition to any other action that a board is permitted to take
18 against a licensee, a board may suspend or revoke a license on the ground that the
19 licensee has been convicted of a crime, if the crime is substantially related to the
20 qualifications, functions, or duties of the business or profession for which the license
21 was issued.

22 (b) Notwithstanding any other provision of law, a board may exercise any
23 authority to discipline a licensee for conviction of a crime that is independent of the
24 authority granted under subdivision (a) only if the crime is substantially related to the
25 qualifications, functions, or duties of the business or profession for which the
26 licensee's license was issued.

27 (c) A conviction within the meaning of this section means a plea or
28 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
a board is permitted to take following the establishment of a conviction may be taken
when the time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal, or when an order granting probation is made suspending the
imposition of sentence, irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code."

10. Section 2762 of the Code states in pertinent part:

"In addition to other acts constituting unprofessional conduct within the
meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

...

(b) Use any controlled substance as defined in Division 10 (commencing
with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or

1 in a manner dangerous or injurious to himself or herself, any other person, or the
2 public or to the extent that such use impairs his or her ability to conduct with safety to
the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,
4 consumption, or self-administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
5 record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

6 (d) Be committed or confined by a court of competent jurisdiction for
7 intemperate use of or addiction to the use of any of the substances described in
subdivisions (a) and (b) of this section, in which event the court order of commitment
or confinement is prima facie evidence of such commitment or confinement."

8 **REGULATORY PROVISION**

9 11. California Code of Regulations, title 16, section 1444, states:

10 "A conviction or act shall be considered to be substantially related to the
11 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
12 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

13 (a) Assaultive or abusive conduct including, but not limited to, those
14 violations listed in subdivision (d) of Penal Code Section 11160.

15 (b) Failure to comply with any mandatory reporting requirements.

16 (c) Theft, dishonesty, fraud, or deceit.

17 (d) Any conviction or act subject to an order of registration pursuant to
Section 290 of the Penal Code."

18 **COST RECOVERY**

19 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Disciplinary Action by New Mexico Board)**

27 13. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of
28 the Code in that Respondent was disciplined by the Board of Nursing for the State of New

1 Mexico ("New Mexico Board"), as follows:

2 14. On or about October 16, 2008, the Board accepted a Settlement Agreement signed by
3 the parties in the disciplinary matter entitled *In the Matter of: Maureen Rooney, License No.*
4 *R40589*. Pursuant to the Settlement Agreement, the parties agreed that Respondent shall receive
5 a letter of reprimand. Additionally, the Settlement Agreement placed Respondent on supervised¹
6 probation for one (1) year, with terms and conditions including random drug screening.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Substantially Related Criminal Conviction)**

9 15. Respondent is subject to disciplinary action under section 490 and section 2761,
10 subdivision (f) of the Code in conjunction with California Code of Regulations, title 16, section
11 1444 in that Respondent was convicted of a crime substantially related to the qualifications,
12 functions and duties of a registered nurse, as follows:

13 16. On or about April 6, 2000, Respondent pled no contest to and was convicted of one
14 (1) misdemeanor count of violating Vehicle Code section 23103(a) pursuant to Vehicle Code
15 section 23103.5 [Reckless Driving-Driving Under the Influence Reduction] and one (1)
16 misdemeanor count of violating Penal Code section 647(f) [Drunk in Public-Drugs] in the
17 criminal proceeding entitled *The People of the State of California v. Maureen P. Rooney* (Super.
18 Ct. of California, County of San Diego, 1999, Case No. M782954). Respondent was placed on
19 three (3) years probation, with terms and conditions. Respondent was ordered to serve ninety
20 (90) days in the custody of the Sheriff and was ordered to attend a thirty (30) day outpatient
21 rehabilitation program. The circumstances underlying the criminal conviction are, as follows:

22 17. On or about July 6, 1999, San Diego Regional Police Officers ("Officers") responded
23 to a radio call of a motor vehicle collision possibly involving a drunk driver. Officers ran the
24 suspect vehicle license plate which revealed the vehicle was registered to Respondent. Officers
25 contacted Respondent at the Department of Motor Vehicle vehicle registration address. Officers
26 contacted Respondent who admitted that she was involved in a car accident. Officers observed

27 ¹ Respondent's probation was supervised by Nancy Darbro, Ph.D., Diversion Program Coordinator for the
28 New Mexico Board.

1 Respondent display the objective symptoms of being under the influence of drugs or alcohol.
2 Respondent admitted to taking pain medication for migraine headaches and Xanax for depression.
3 Respondent told officers "[t]he doctor told me not to drive, but I thought it was o.k. to drive, I
4 only live 20 minutes away from the [doctor's] office."

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 18. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
8 Code on the grounds of unprofessional conduct in that on or about July 6, 1999, Respondent
9 drove under the influence of drugs or alcohol. The conduct is described in more particularity in
10 paragraph 17 above, inclusive and hereby incorporated by reference.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct: Drug Related Transgressions)**

13 19. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
14 Code as defined in section 2762, subdivision (b) of the Code in that on or about July 6, 1999,
15 Respondent used controlled substances to an extent or in a manner dangerous or injurious to
16 herself, others and the public. The transgression is described in more particularity in paragraph
17 17 above, inclusive and hereby incorporated by reference.

18 20. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
19 Code as defined in section 2762, subdivision (c) of the Code in that on or about April 6, 2000,
20 Respondent was convicted of a criminal offense involving the consumption or self administration
21 of a drug. The conviction is described in more particularity in paragraph 16 above, inclusive and
22 hereby incorporated by reference.

23 21. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
24 Code as defined in section 2762, subdivision (d) of the Code in that on or about April 6, 2000,
25 Respondent was committed or confined by a court of competent jurisdiction for intemperate use
26 of drugs. The commitment or confinement is described in more particularity in paragraph 16
27 above, inclusive and hereby incorporated by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Nursing Practice Act)**

3 22. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the
4 Code in that Respondent violated provisions of the Nursing Practice Act. The violations are
5 described in more particularity in paragraphs 13 through 21 above, inclusive and hereby
6 incorporated by reference.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 549333, issued to
11 Maureen Patricia Rooney aka Maureen Rooney;

12 2. Ordering Maureen Patricia Rooney aka Maureen Rooney to pay the Board of
13 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.
16
17

18 DATED: MARCH 11, 2013

19 *for* *Stacie Ben*
20 LOUISE R. BAILEY, M.ED., RN
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant
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